

Disciplinary and Other NASD Actions

REPORTED FOR AUGUST

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of July 2006.

Firm Expelled, Individuals Sanctioned

Greater Metropolitan Investment Services, Inc. (CRD #17452, Bedminster, New Jersey), Chintaman M. Dalvi (CRD #1981088, Registered Principal, Mendham, New Jersey) and James Thomas Patten (CRD #1143818, Registered Principal, Bernardsville, New Jersey) submitted Offers of Settlement in which the firm was expelled from NASD membership and Dalvi and Patten were barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm and Patten, directly or indirectly, by use of means or instrumentalities of interstate commerce, intentionally or recklessly employed a device, scheme or artifice to defraud, or engaged in an act, practice or course of business that operated or would operate as a fraud or deceit in connection with the purchase or sale of a security, in that they manipulated the price of a stock. The findings stated that the firm and Patten falsely marked many customer order tickets as unsolicited orders when, in fact, they had solicited customers to buy or sell the stock. The findings also stated that the respondents countenanced a supervisory system that did not apply or monitor procedures with regard to Patten's trading activities, and thereby failed to establish, maintain or enforce a system to supervise the activities of each of the firm's registered representatives and associated persons reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules. The findings also included that the firm's written supervisory procedures contained inadequate or non-existent procedures relating to compliance with anti-fraud, anti-manipulation and recordkeeping provisions of securities laws, regulations and NASD rules. NASD also found that Dalvi failed to establish, maintain and enforce written procedures designed to achieve compliance with anti-fraud and recordkeeping provisions of securities laws, regulations and NASD rules. In addition, NASD determined that the firm and Dalvi failed to reasonably supervise Patten's trading activities in a security and his improper marking of customer order tickets in the security as unsolicited. (NASD Case #2005000245601)

Firms Fined, Individuals Sanctioned

Beerbaum & Beerbaum, Financial and Insurance Services, Inc. (CRD #17099, Santa Rosa, California) and Hans Norman Beerbaum (CRD #717043, Registered Principal, Petaluma, California). The firm was fined \$15,000 and Beerbaum was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following an appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm permitted Beerbaum to conduct securities business, provide supervision and prepare and file annual audit reports without having been properly registered with NASD to engage in such activities.

This action has been appealed to the Securities and Exchange Commission (SEC). All sanctions are not in effect pending consideration of the appeal. (NASD Case #C01040019/C0120040019)

PGP Financial, Inc. (CRD #21617, Hauppauge, New York) and Ellen Rose Lozinski (CRD #2372418, Registered Principal, Great River, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000, jointly and severally with Lozinski. Lozinski was suspended from association with any NASD member in a principal capacity for ten business days. Without admitting or denying the findings, the firm and Lozinski consented to the described sanctions and to the entry of findings that the firm, acting through Lozinski, operated a securities business without a properly registered financial and operations principal (FINOP). The findings stated that the firm, acting through Lozinski, failed to timely file the Uniform Termination Notice for Securities Industry Registration (Form U5) concerning a registered person within 30 days from the date of termination. The findings also stated that the firm, acting through Lozinski, conducted a securities business while failing to maintain its minimum net capital requirement.

The suspension in a principal capacity was in effect from July 17, 2006 through July 28, 2006. (NASD Case #ELI2005000631601)

The Shemano Group, Inc. (CRD #35528, San Francisco, California), William David Corbett (CRD #1478411, Registered Representative, Belvedere, California), Michael Keith McDonough (CRD

#1511844, Registered Principal, Alameda, California) and Gary Jay Shemano (CRD #421322, Registered Principal, Kentfield, California) submitted Letters of Acceptance, Waiver and Consent in which the firm and Shemano were fined \$425,000, jointly and severally. The firm and Shemano were barred from publishing research reports as the term is defined in NASD Rule 2711(a), and the firm was required to hire an independent consultant to review the adequacy of the firm's policies, systems, procedures and training. Shemano was suspended from association with any NASD member in any capacity for 90 days. Corbett was fined \$150,000 and suspended from association with any NASD member in any capacity for 60 days. McDonough was fined \$20,000 and suspended from association with any NASD member as a general securities principal for nine months. Without admitting or denying the findings, the respondents consented to the described sanctions and to the entry of findings that Shemano sold Corbett's shares of a publicly traded company while Corbett was reviewing drafts of a pending research report on the company that contained mismanagement allegations, and Corbett, as lead banker, and McDonough, as Chief Compliance Officer, failed to detect and prevent the sales. The findings stated that the firm, Shemano and McDonough failed to establish, maintain and enforce a system of supervision and written supervisory procedures reasonably designed to prevent the misuse of material and nonpublic information, and to achieve compliance with applicable securities laws, regulations and NASD rules. The findings stated that Corbett provided knowing and substantial assistance to his firm in violation of its written supervisory procedures. The findings also stated that Corbett knowingly hired, and the firm made payments to, an individual for consulting services relating to the issuance of research reports and investment banking activities who they knew to be statutorily disqualified from association with any NASD member, and failed to report the association to NASD. The findings also included that the firm published research reports the barred individual wrote that deleted material risk disclosures and failed to disclose material facts, and McDonough failed to supervise the preparation of the research reports. NASD found that the firm failed to reasonably supervise the firm's research and investment banking departments and the barred consultant in connection with their activities relating to the issuance of research reports.

Corbett's suspension in any capacity will be in effect from July 11, 2006 through September 8, 2006. McDonough's suspension in a principal capacity will be in effect from October 16, 2006 through July 15, 2007. Shemano's suspension in any capacity will be in effect from June 19, 2006 through September 16, 2006. (NASD Cases 20050001727-01/20050001727-02/20050001727-03)

Firms and Individuals Fined

Conners & Co., Inc. (CRD #1511, Cincinnati, Ohio) and Robert Louis Conners (CRD #52353, Registered Principal, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was fined an additional \$5,000. Without admitting or denying the findings, the firm and Conners consented to the described sanctions and to the entry of findings that the firm, acting through Conners, executed customer transactions in municipal securities that were inaccurately or not timely reported, in that transactions were not reported to the MSRB within 15 minutes of the execution times, and reported trades that should not have been reported. The findings stated that the firm failed to prepare and maintain accurate order memoranda for municipal securities transactions. The findings also stated that the firm, acting through Conners, failed to establish, maintain and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable MSRB rules related to the reporting of municipal securities transactions. The findings also included that the firm, acting as underwriter in primary offerings of municipal securities, failed to timely file Forms G-36(OS) with the MSRB. (NASD Case #E8A2005005401)

Hunter Scott Financial LLC (CRD #45559, Delray Beach, Florida) and Peter Alex Gouzous (CRD# 1959666, Registered Principal, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Gouzous was censured and fined \$10,000, jointly and severally with the firm, and required to register for 16 hours of training concerning anti-money laundering (AML), in a program not unacceptable to NASD. Without admitting or denying the findings, the firm and Gouzous consented to the described sanctions

and to the entry of findings that the firm, acting through Gouzous, failed to adequately implement its AML compliance program. (NASD Case #2005002185901)

Southwest Securities, Inc. (CRD #6220, Dallas, Texas), Stuart Martin Berwick (CRD #1031019, Registered Principal, Dallas, Texas) and Louis Joseph Matrone (CRD #2206335, Registered Principal, Frisco, Texas) submitted a Letter of Acceptance, Waiver and Consent in which they were censured. The firm was fined \$40,000, \$20,000 of which was jointly and severally with Berwick, and \$10,000 of which was jointly and severally with Matrone. The firm was also fined an additional \$120,000 and required to revise its written supervisory procedures regarding registration requirements, SEC Rules 11Ac1-1, 11Ac1-5, riskless principal trade reporting, the Order Audit Trail SystemSM (OATSSM) and the Trade Reporting and Compliance Engine (TRACE) trade reporting. Without admitting or denying the findings, the respondents consented to the described sanctions and to the entry of findings that the firm failed to properly register Berwick and Matrone as general securities principals, and Berwick and Matrone failed to ensure that they were properly registered. The findings stated that the firm's supervisory system and written supervisory procedures failed to provide for supervision reasonably designed to achieve compliance with respect to compliance with applicable securities laws, regulations and NASD rules concerning registration requirements, SEC Rules 11Ac1-1, 11Ac1-5, riskless principal trade reporting, OATS and TRACE trade reporting. The findings also included that the firm submitted quarterly order routing information reports that incorrectly disclosed an "Unspecified Route Venue" to which the firm's orders were routed, and the firm failed to submit any route reports to OATS related to Cancel/Replace reports that the firm was required to submit. NASD found that the firm, as an Intermarket Trading System/Computer Assisted Execution System (ITS/CAES) Market Maker, purchased or sold ITS/CAES securities, whether in a principal capacity or as an agent, at prices that were lower than the bid or higher than the offer displayed from an ITS Participant Exchange or ITS/CAES Market Maker. NASD also found that the firm failed to report transactions in TRACE-eligible securities executed on a business day during TRACE system hours to TRACE that it was required to report within 45 minutes of execution. (NASD Case #20042000225-01)

Thor Capital, LLC (CRD #45716, New York, New York) and Peter A. Kambolin (CRD #2637562, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$10,000, jointly and severally, and the firm was fined an additional \$5,000. Without admitting or denying the findings, the firm and Kambolin consented to the described sanctions and to the entry of findings that the firm, acting through Kambolin, published a Web site that contained inaccurate statements regarding the trading volume the firm handled on behalf of customers, the type of securities in which it conducted an active business and the number of states in which it was currently registered. The findings stated that the firm's new account documentation for public customer accounts failed to include employment information, income information, net worth and investment objectives. (NASD Case #E1020030516-01)

Firms Fined

Andrew Garrett, Inc. (CRD #29931, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which it was censured and fined \$17,500, of which \$7,500 was imposed jointly and severally with an individual. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business when its net capital fell below the minimum amount required under SEC Rule 15c3-1. The findings stated that the firm, acting through an individual, prepared inaccurate net capital computations. (NASD Case #E1020050019-01)

Banorte Securities International, Ltd., (CRD #30648, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which it was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to enforce its written supervisory procedures to ensure that it conducted its business in accordance with MSRB rules. The findings stated that the firm did not have a properly registered municipal securities principal, failed to properly complete order tickets for municipal securities, and its municipal securities transactions were reported to the MSRB late. The findings also stated that the firm failed to seek approval for a change to its

membership agreement prior to engaging in business as a municipal broker or dealer. (NASD Case #E1020050483-02)

Bear Stearns & Co. Inc. (CRD #79, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which it was censured and fined \$150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit options communications for review by a Compliance Registered Options Principal or an appropriate designee, and the firm's educational material was not submitted to NASD or another self-regulator for review and approval at least 10 days prior to the firm's use, as NASD Rule 2220 requires. The findings stated that the firm's options communications omitted material facts that made them false and/or misleading, suggested a certainty of future performance, used hedge clauses or disclaimers that attempted to disclaim responsibility for the communications, and included discussion of the advantages and opportunities presented by option investments without the proper disclosure of risks. The findings also stated that the communications failed to include the required warning that options are not suitable for all investors, potential risks associated with options, the name and address of a person who could provide an Options Disclosure Document, relevant costs and a statement that supporting documentation for any claims made in the communication would be supplied upon request. The findings also included that the firm's research report failed to define the meaning of the ratings used in the report, failed to disclose the distribution of ratings used in the firm's rating system and failed to provide required disclosures or references to where the disclosures could be found on the front page of the research report. NASD found that the firm failed to establish, maintain and enforce a supervisory system and procedures reasonably designed to achieve compliance with certain federal securities laws and NASD rules regarding content standards and principal approval of options communications with the public. (NASD Case #E1020040050-01)

Chapdelaine Corporate Securities & Co. (CRD #23741, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$13,500 and required to revise its written supervisory procedures with respect to OATS compliance. Without admitting or denying the findings,

the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in eligible securities through the NASDAQ Market Center within 20 minutes after execution, when the firm had an obligation to report them as the order entry identifier (OEID). The findings stated that the firm failed to timely report Reportable Order Events (ROEs). The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning OATS compliance. (NASD Case #20042000279-01)

Conifer Securities, L.L.C. (CRD #23857, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures with respect to OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS. The findings stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning OATS. (NASD Case #20050000063-01)

ING Investment Management Services LLC (CRD #21644, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with NASD rules and federal securities laws and regulations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve all electronic communications relating to its business as SEC Rule 17a-4 requires. In determining the amount of the fine, NASD took into account the demonstrable corrective action undertaken by the firm before the staff commenced its examination. (NASD Case #E102004019901)

Lexington Investment Company, Inc. (CRD #27393, Lexington, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it

failed to maintain the minimum required net capital, prepared inaccurate trial balances and net capital computations, and filed inaccurate FOCUS Part IIA reports. The findings stated that the firm entered into a membership agreement with NASD that it would not hold customer funds or safe keep customer securities, but the firm deducted funds from employee salaries for deposit in the firm's 401(k) fund and held the funds until they were deposited at a later date. The findings also stated that the MSRB prepared a Customer Transaction Compliance Report that showed that the percentage of the firm's municipal trades reported late was substantially larger than the industry average. The findings also included that the firm executed municipal securities transactions that were not timely reported. NASD found that the firm failed to establish, maintain and enforce adequate written supervisory procedures that were reasonably designed to achieve compliance with applicable MSRB rules related to municipal securities transaction reporting. (NASD Case #E8A2005013001)

Oppenheimer & Co., Inc. (CRD #249, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which it was censured, fined \$17,500 and required to revise its written supervisory procedures with respect to maintaining two-sided quotations as an ITS/CAES Market Maker. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, as an ITS/CAES Market Maker, it failed to maintain continuous two-sided quotations in the absence of the grant of an excused withdrawal or a functional excused withdrawal by NASD. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning maintaining two-sided quotations as an ITS/CAES Market Maker. (NASD Case #20050002356-01)

Penson Financial Services, Inc. (CRD #25866, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in certain securities and, for each order, failed to make/annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow

the security on the customer's behalf for delivery by the settlement date. The findings stated that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market to OATS that were not in the electronic form prescribed by NASD and were repairable. **(NASD Case #20041000171-01)**

Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$26,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in eligible securities through the Automated Confirmation Transaction ServiceSM (ACTSM), and failed to designate some of them as late. The findings stated that the firm failed to report the correct symbol indicating whether a transaction was a "buy," "sell," "sell short," "sell short exempt" or "cross" for transactions in eligible securities to ACT. The findings also stated that the firm transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS, in that the reports contained an incorrect time associated with the transaction. The findings also included that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price. NASD found that the firm, in transactions for or with a customer, failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price was as favorable as possible under prevailing market conditions. **(NASD Case #20050001007-01)**

Schonfeld Securities, L.L.C. (CRD #23304, Jericho, New York) submitted a Letter of Acceptance, Waiver and Consent in which it was censured, fined \$12,500 and required to revise its supervisory procedures with respect to OATS compliance. Without admitting or denying the findings, its consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning OATS compliance. **(NASD Case #20050000107-01)**

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit Route Reports related to Cancel/Replace Reports to OATS. The findings stated that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market to OATS that were not in the NASD-prescribed electronic form. OATS rejected the reports, and notice of the rejection was made available to the firm on the OATS Web site, but the firm failed to correct some of the reports. The findings also stated that the firm failed to maintain written documents evidencing the reporting agent agreement(s) it had in effect. The findings also included that the firm failed to enforce its written supervisory procedures that specified that it would maintain reports of each day's rejections with notations explaining what was repaired and resubmitted. **(NASD Case #20050000057-01)**

Screaming Eagle Trading, Inc. (CRD #126125, Orinda, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning OATS. **(NASD Case #20050007066-01)**

Strasbourger, Pearson, Tulcin, Wolff, Inc. (CRD #5133, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute a TRACE Participation Agreement and therefore was not eligible to participate in TRACE. The findings stated that the firm failed to report all of the TRACE transactions in TRACE-eligible securities it was required to report. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning TRACE. **(NASD Case #20050011479-01)**

Terra Nova Trading, L.L.C. (CRD #37761, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings,

the firm consented to the described sanctions and to the entry of findings that it failed to comply with SEC Rule 15c3-3, in that it failed to deposit in the Special Reserve Bank Account for the Exclusive Benefit of Customers (Reserve Bank Account) amounts required to satisfy its reserve requirement as computed according to the Reserve Formula Computation. The findings stated that the firm failed to adequately supervise its preparation and computation of the Reserve Bank Account requirements that resulted in insufficient funding. (NASD Case #E8A2005003501)

Turning Point Securities, LLC (CRD #104457, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which it was censured, fined \$10,000 and required to revise its written supervisory procedures regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in eligible securities that it was required to report through NASDAQ. The findings stated that the firm incorrectly designated last sale reports of transactions in eligible securities reported to NASDAQ Market Center within 90 seconds of execution as “.SLD”. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning trade reporting. (NASD Case #20050004987-01)

Westport Capital Markets, LLC (CRD #41562, Westport, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which it was censured and fined \$22,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute a TRACE participant application agreement, and therefore, was not a TRACE participant. The findings stated that the firm failed to report TRACE-eligible transactions. The findings also stated that the firm accepted customer checks payable to the firm, rather than ensuring that their customers made their checks payable to its clearing firm. Therefore, it was in violation of Section 15(c) of the Exchange Act and SEC Rule 15c3-3 thereunder. The findings also included that the firm used the instrumentalities of interstate commerce to conduct a securities business while failing to maintain the minimum required net capital. NASD

found that the firm failed to have written supervisory procedures reasonably described to comply with TRACE reporting requirements and the Customer Protection Rule. (NASD Case #E112005003901)

Individuals Barred or Suspended

Eugene Gilbert Abeyta, Jr. (CRD #2987570, Registered Representative, Los Lunas, New Mexico) was barred from association with any NASD member in any capacity. The sanction was based on findings that Abeyta engaged in outside business activities and failed to provide prompt written notice to his member firm. The findings stated that Abeyta failed to respond to NASD requests for documents and information. (NASD Case #E3A2004036101)

Dean Russel Baker (CRD #4493790, Registered Representative, Coral Springs, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Baker consented to the described sanction and to the entry of findings that he effected, or caused to be effected, securities transactions in public customers’ accounts without their prior authorization, knowledge or consent. The findings stated that in order to induce customers to make authorized purchases, Baker made baseless price predictions, used time sensitivity when recommending stocks and failed to disclose material facts such as risks and conflicts of interest associated with the stock purchases. (NASD Case # E072004052202)

Steven John Balog (CRD #857771, Registered Principal, Woodbine, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Balog consented to the described sanction and to the entry of findings that he engaged in outside business activities, for compensation, without providing prompt written notice to his member firm. (NASD Case #E9A2004049802)

Alan Edmund Bartholemy, Jr. (CRD #3122838, Registered Representative, Folsom, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Bartholemy consented to the described

sanction and to the entry of findings that he willfully failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose material information. **(NASD Case #20050034152-01)**

Joseph Michael Blackwell (CRD #22729, Registered Principal, Vancouver, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any NASD member in any principal or supervisory capacity, or as an AML officer, for one year, and required to attend and satisfactorily complete 16 hours of continuing education concerning AML before he reassociates with any NASD member firm in any principal or supervisory capacity or as an AML compliance officer. In light of Blackwell's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Blackwell consented to the described sanctions and to the entry of findings that he failed to establish and implement an AML compliance program reasonably designed to achieve compliance with the Bank Secrecy Act.

The suspension in any principal or supervisory capacity, or as an AML compliance officer, is in effect from July 17, 2006 through July 16, 2007. **(NASD Case #20050011006)**

Christopher Charles Bourlier (CRD #2756033, Registered Principal, Montgomery, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Bourlier consented to the described sanctions and to the entry of findings that he recommended securities transactions to a public customer without having reasonable basis for believing the recommendations were suitable for the customer.

The suspension in any capacity was in effect from July 17, 2006 through July 28, 2006. **(NASD Case #20050004254-01)**

Eric James Brown (CRD #2203972, Registered Representative, Highland Beach, Florida) submitted an Offer of Settlement in which he was fined \$15,000, ordered to pay \$17,653.52 plus interest in restitution to a public customer and suspended from association with any NASD member in any capacity for three months.

The fine and restitution must be paid before Brown reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he recommended the purchase and sale of multiple variable annuities and variable life products to public customers that were unsuitable in view of their financial situations, investment objectives, circumstances and needs. The findings stated that Brown completed applications for a public customer to purchase variable annuities and made false statements on them, thus creating a false book and record at his member firm.

The suspension in any capacity is in effect from July 17, 2006 through October 16, 2006. **(NASD Case #E112003006903)**

Dominick Anthony Burke (CRD #2578387, Registered Principal, Nanuet, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Burke reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Burke consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from July 17, 2006 through October 16, 2006. **(NASD Case #2006004760001)**

Kelly Ann Burke (CRD #4895800, Associated Person, Tinley Park, Illinois) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Burke consented to the described sanction and to the entry of findings that she completed and submitted electronic applications for automobile insurance to an insurance company with false information, including Social Security numbers, to qualify the applicants for insurance at better rates. The findings stated that Burke failed to respond to NASD requests for documents and information. **(NASD Case #2005001331101)**

Larry Steven Capstick (CRD #2776904, Registered Representative, Germantown, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Capstick reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Capstick consented to the described sanctions and to the entry of findings that he engaged in an outside business activity for compensation without providing his member firm with written notice.

The suspension in any capacity is in effect from July 17, 2006 through August 25, 2006. **(NASD Case #2005001908901)**

Steven Charles Clyde (CRD #1512386, Registered Principal, Fair Oaks, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Clyde made unauthorized withdrawals totaling \$43,000 from public customers' accounts by forging their signatures on documents and providing them with other documents to assuage their concerns about the withdrawals from their accounts. The findings stated that Clyde failed to respond to NASD requests to provide on-the-record testimony. **(NASD Case #E062004019501)**

John D. Chehovich (CRD #4804581, Registered Representative, Junedale, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Chehovich consented to the described sanction and to the entry of findings that he made unauthorized withdrawals totaling \$63,000 from public customers' accounts by forging their names on bank withdrawal slips, deposited the funds into a fictitious bank account he controlled and converted the funds to his own use without the customers' consent. **(NASD Case #2006004149101)**

Jack Thomas Cole (CRD #3006129, Registered Representative, Isanti, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Cole consented to the described sanction and to

the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #2005002853101)**

Herbert Hunt Covington, III (CRD #2080038, Registered Representative, Chagrin Falls, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Covington consented to the described sanction and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice to his member firm. The findings stated that Covington engaged in private securities transactions, for compensation, and failed to give prompt written notice to, or receive written approval from, his member firm. The findings also stated that Covington failed to respond to NASD requests for documents and to appear for an on-the-record interview. **(NASD Case #E8A2004080201)**

Joseph Anthony D'Altilia (CRD #850779, Registered Representative, Colorado Springs, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, D'Altilia consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents and information. **(NASD Case #2005002047601)**

Brian Emil Davis (CRD #2334949, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Davis consented to the described sanction and to the entry of findings that he received \$2,892.79 from a public customer to pay for an extension of a universal life insurance contract, but instead deposited the funds into his personal bank account and converted them to his personal use. **(NASD Case #20050028100-01)**

John Joseph Delaney (CRD #64352, Registered Representative, Jupiter, Florida) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Delaney consented to the

described sanctions and to the entry of findings that he exercised discretionary power in public customers' accounts without obtaining prior written authorization from the customers and prior written acceptance of the accounts as discretionary from his member firm.

The suspension in any capacity was in effect from July 17, 2006 through August 11, 2006. **(NASD Case #EAF0300770001)**

Philip Orezio Fatta (CRD #1467533, Registered Principal, Holtsville, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$14,000, which includes \$4,000 in disgorgement of commissions received, and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the findings, Fatta consented to the described sanctions and to the entry of findings that he improperly altered account transfer forms that had been signed and used by public customers from his previous firm as though they were new account transfer forms for purposes of transferring the customers' accounts to his firm, thus causing his firm's books and records to be inaccurate. The findings stated that Fatta charged customers unreasonable and excessive option commissions on covered call transactions.

The suspension in any capacity is in effect from August 7, 2006 through November 6, 2006. **(NASD Case #E1020040299-05)**

Jorge Guillermo Fernandez (CRD #1220231, Registered Principal, Mayfield Heights, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Fernandez induced public customers to participate in a new investment and to make their checks made payable to the firm, which he deposited into an unauthorized corporate bank account he had opened in the firm's name by falsely identifying himself as the president of the firm. The findings stated that Fernandez wire transferred \$1,500,000 from the unauthorized bank account to a bank overseas for his personal use. The findings also stated that Fernandez failed to respond to NASD requests for information. **(NASD Case #2005000545601)**

Matthew Bene Forman (CRD #4689759, Registered Principal, Portland, Oregon) submitted a Letter of

Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Forman reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Forman consented to the described sanctions and to the entry of findings that he knowingly prepared and submitted false life insurance applications and a false agent's report in connection with the purchase of variable universal life insurance policies, causing his member firm to maintain inaccurate books and records regarding the false applications.

The suspension in any capacity will be in effect from July 3, 2006 through July 2, 2007. **(NASD Case #2005002683901)**

Matthew Jay Forry (CRD #3199935, Registered Principal, York, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Forry reassociates with any NASD member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Forry consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without providing his member firm with prompt written notice.

The suspension in any capacity is in effect from July 17, 2006 through August 25, 2006. **(NASD Case #2005003237501)**

Stephen William Godfrey (CRD #4319775, Registered Representative, Waukesha, Wisconsin) was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine is due and payable when and if Godfrey seeks to return to the securities industry. The sanctions were based on findings that Godfrey failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from July 17, 2006 through August 16, 2006. **(NASD Case #E8A2004096901)**

Melanie Erin Howell (CRD #5074630, Associated Person, Olney, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Howell consented to the described sanction and to the entry of findings that, during a Series 7 qualification examination, she retained in her possession notes related to the subject matter of the qualification examination. Therefore, she violated the Rules of Conduct she had signified acceptance of prior to the examination. **(NASD Case #2006004235701)**

Eric Carlin Howie (CRD #4328428, Registered Representative, Milpitas, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$6,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Howie reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Howie consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without prior approval from his member firm.

The suspension in any capacity is in effect from August 7, 2006 through September 5, 2006. **(NASD Case #2005002880701)**

Edwin Henry Jaffe (CRD #1382154, Registered Principal, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for nine months. Without admitting or denying the findings, Jaffe consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing his member firm with prior written notice of the proposed transactions and his role therein.

The suspension in any capacity will be in effect from August 21, 2006 through May 20, 2007. **(NASD Case #E052004022602)**

Carl Phillip Kellogg (CRD #865366, Registered Representative, Ada, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 60 days. The fine

must be paid before Kellogg reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Kellogg consented to the described sanctions and to the entry of findings that he borrowed approximately \$140,000 from public customers in violation of his member firm's written procedures that prohibited its registered representatives from borrowing money from customers unless the customers are the representative's immediate family members and the representative obtains the firm's prior written permission. The findings stated that the customers were not related and Kellogg had not obtained written permission.

The suspension in any capacity will be in effect from August 7, 2006 through October 5, 2006. **(NASD Case #2005001351501)**

Gerald Lawrence Kells, II (CRD #1465055, Registered Principal, Manlius, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 20 business days. The fine must be paid before Kells reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Kells consented to the described sanctions and to the entry of findings that he executed securities transactions in a public customer's trust account without the customer's prior knowledge, authorization or consent.

The suspension in any capacity was in effect from July 17, 2006 through August 11, 2006. **(NASD Case #2005003581901)**

Bryon Scott Key (CRD #3012745, Registered Representative, Mt. Pleasant, South Carolina) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Key consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that Key also failed to disclose his interest in a securities account to his member firm and to the firm carrying the account. The findings also stated that Key failed to respond to NASD requests for information and documents. **(NASD Case #2005002663801)**

John William Krysko (CRD #1107749, Registered Representative, Pleasantville, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Krysko consented to the described sanction and to the entry of findings that he failed to respond to an NASD request for information. **(NASD Case #2006004154801)**

Benny Jim Land (CRD #2532168, Registered Representative, Wichita Falls, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Land consented to the described sanctions and to the entry of findings that he forged public customers' signatures and/or initials on various firm application forms and other customer-related firm documents. **(NASD Case #2005001985101)**

Nathan Edward Lubow (CRD #1851414, Registered Principal, Jacksonville, Florida) submitted a Letter of Acceptance, Waiver and consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Lubow reassociates with any NASD member following the suspension noted above, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Lubow consented to the described sanctions and to the entry of findings that he entered into a settlement agreement with public customers in response to a complaint, failed to disclose the settlement agreement to his member firm, and further, failed to satisfy his obligations pursuant to the agreement.

The suspension in any capacity is in effect from August 7, 2006 through August 6, 2007. **(NASD Case #2005001375201)**

Stacey Joe McBee (CRD #2630337, Registered Representative, Suwanee, Georgia) was barred from association with any NASD member in any capacity. The sanctions were based on the findings that McBee opened a securities account with another NASD member firm and failed to disclose to that firm that he was associated with his member firm. The findings stated that he failed to give his member firm written notification that he opened a securities account with another member firm. The findings also stated that

McBee engaged in outside business activities, for compensation, without giving his member firm prompt written notice of his outside business activities. The findings further stated that McBee failed to respond to NASD requests for information and documents. **(NASD Case #E072004088201)**

Anthony Dickson Miller (CRD #2425850, Registered Representative, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$13,000, which includes an \$8,000 disgorgement of ill-gotten gains and restitution of \$3,342 to a public customer, and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the findings, Miller consented to the described sanctions and to the entry of findings that he recommended and effected securities transactions in a public customer's account that were unsuitable in light of the customer's experience, objectives, financial resources and circumstances. The findings stated that Miller effected numerous discretionary transactions in customers' accounts without their prior written authorization and his member firm's prior written acceptance of the accounts as discretionary.

The suspension in any capacity is in effect from July 17, 2006 through September 14, 2006. **(NASD Case #E0620020559-01)**

Nora Lynn Newell (CRD #1765390, Registered Representative, Chattanooga, Tennessee) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. In light of Newell's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Newell consented to the described sanction and to the entry of findings that she borrowed funds totaling \$45,000 from public customers and to fund these loans, she recommended and executed the liquidation of various mutual fund holdings in the customers' accounts. The findings stated that Newell falsely represented to the customers that the funds would be used for real estate investments and she would pay the loans with interest. The findings also stated that Newell never made any principal or interest payments on the loans. The findings also included that Newell did not have reasonable grounds for believing that the recommendation to liquidate and the resultant mutual fund sale transactions were suitable for the customers based on their financial situations, investment

objectives or needs. In addition, NASD determined that Newell failed to respond to NASD requests for information. (NASD Case #E052004024601)

Jeffrey Marc O'Brasky (CRD #1342618, Registered Representative, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before O'Brasky reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, O'Brasky consented to the described sanctions and to the entry of findings that he entered orders for, and caused the execution of, call options transactions in a public customer's account that he was not authorized to trade pursuant to his member firm's procedures and without approval from the trustees of the transactions prior to execution. The findings stated that O'Brasky provided to a principal of the firm an Options New Account Form for approval of options trading in a customer's account without disclosing that the signatures were not genuine, causing one of his member firm's required records to be falsified.

The suspension in any capacity is in effect from July 3, 2006 through July 2, 2008. (NASD Case #E3A20040354-03)

Emil Brian Panzarino, Jr. (CRD #2540399, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Panzarino consented to the described sanction and to the entry of findings that he received \$877 from a public customer for the purpose of paying the premium on an automobile insurance policy, and rather than apply the funds to the policy, Panzarino kept and used the funds for his personal use and benefit without the customer's knowledge or authorization. The findings stated that Panzarino failed to appear for an NASD on-the-record interview. (NASD Case #ELI20040386-01)

Andrew James Patton (CRD #2428998, Registered Representative, Fort Collins, Colorado) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Patton consented to the

described sanctions and to the entry of findings that, in order to induce public customers to purchase long-term callable certificates of deposit (CDs), he made material misrepresentations of fact. The findings stated that Patton inappropriately exercised a "death-put" feature of a brokered CD held in a public customer's estate account.

The suspension in any capacity is in effect from July 17, 2006 through August 25, 2006. (NASD Case #C05050003/C0520050003)

Corey Mark Patick (CRD #2745094, Registered Supervisor, West Covina, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Patick reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Patick consented to the described sanctions and to the entry of findings that he failed to timely respond to NASD requests for documents and information.

The suspension in any capacity is in effect from July 17, 2006 through October 16, 2006. (NASD Case #E0220040528-04)

Philip Leighton Regano (CRD #1187182, Registered Representative, Boardman, Ohio) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Regano consented to the described sanction and to the entry of findings that he received \$619,584.87 from public customers to purchase fixed annuities but failed to follow instructions and used the funds for some purpose other than the customers' benefit. The findings stated that Regano created fictitious statements that lulled the customers into believing that their funds were used for their intended purpose. The findings also stated that Regano engaged in private securities transactions without providing prior written notice to his member firm and obtaining written approval from the firm. (NASD Case #E8A2004059501)

Alfred V. Rodriguez (CRD #4278690, Registered Representative, Toms River, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in

any capacity. Without admitting or denying the findings, Rodriguez consented to the described sanction and to the entry of findings that he signed another member firm employee's name on a verification of employment form without the employee's knowledge or authorization, and Rodriguez also falsified his compensation figures on that form. **(NASD Case #2006004107901)**

Emanuele Anthony Scarso (CRD #2080536, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity and ordered to reimburse public customers \$74,120.14, plus interest. The sanctions were based on findings that Scarso executed unauthorized transactions in public customers' accounts. **(NASD Case #E062003035102)**

Frank Nicholas Scott, Jr. (CRD #823248, Registered Representative, Waco, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Scott consented to the described sanction and to the entry of findings that he participated in private securities transactions without notifying his member firm of these transactions and his proposed role therein, and without receiving his member firm's prior written approval to engage in these transactions. The findings stated that Scott failed to respond to NASD requests for information. **(NASD Case #20050022435-01)**

Imran Nasim Shams (CRD #2648646, Registered Supervisor, Miamisburg, Ohio) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 60 days, immediately followed by a suspension from association with any NASD member in any supervisory capacity for 90 days. The fine must be paid before Shams reassociates with any NASD member following the suspension in any capacity, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Shams consented to the described sanctions and to the entry of findings that he assisted registered representatives in facilitating their clients' efforts to avoid mutual fund restrictions on their market timing activities, and also directly facilitating those efforts, thereby failing to observe high standards of commercial honor and just and equitable principals of trade. The findings stated

that Shams failed to supervise, in that he failed to adequately respond on a timely basis to the red flags regarding the brokers' efforts to assist their clients' deceptive activity.

The suspension in any capacity is in effect from August 7, 2006 through October 5, 2006, and the suspension in any supervisory capacity will be in effect from October 6, 2006 through January 3, 2007. **(NASD Case #EAF0301040003)**

William Anthony Shriner (CRD #3212618, Registered Representative, Brownsburg, Indiana) was barred from association with any NASD member in any capacity. The sanction was based on findings that Shriner converted \$62,689.19 that belonged to public customer and used the funds for his own use and benefit without the consent or knowledge of the customer. The findings stated that Shriner failed to respond to NASD requests for information and documents. **(NASD Case #E8A2004073701)**

Raymond Henry Sutterlin (CRD #2517021, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$12,000 and suspended from association with any NASD member in a FINOP capacity for 15 business days. The fine must be paid before Sutterlin reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Sutterlin consented to the described sanctions and to the entry of findings that his member, acting through Sutterlin, failed to adequately ensure that the firm's ledgers and other records accurately reflected all of the firm's assets, liabilities and expenses, causing the firm's records to be inaccurate, which violated Section 17 of the SEC Act of 1934 and Rule 17a-3 thereunder. The findings stated that the firm, acting through Sutterlin, filed inaccurate FOCUS reports. The findings also stated that, as a result of failing to adequately track and book various incurred expenses, the firm, while conducting a securities business and acting through Sutterlin, failed to maintain its minimum net capital requirement and to give timely notice to the SEC and NASD, pursuant to SEC Rule 17a-11.

The suspension in a FINOP capacity was in effect from July 3, 2006 through July 24, 2006. **(NASD Case #E1020040750-01)**

Jonathan Michael Taylor (CRD #4188832, Registered Representative, Reading, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Taylor reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Taylor consented to the described sanctions and to the entry of findings that he signed public customers' names on an updated Suitability Form and Disclosure Check List form without their authorization or consent.

The suspension in any capacity is in effect from July 3, 2006 through October 2, 2006. **(NASD Case #20060036945-01)**

Duane Keith Thelen (CRD #455532, Registered Representative, Comstock Park, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Thelen failed to respond to NASD requests for information. The findings stated that Thelen received funds from public customers to purchase insurance, but failed to pay the premiums, thereby misusing customer funds. **(NASD Case #E8A20040817-01)**

Joseph Gerald Vitetta (CRD #1536695, Registered Representative, Sea Bright, New Jersey) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay a public customer \$37,000 in restitution. Without admitting or denying the allegations, Vitetta consented to the described sanctions and to the entry of findings that he made an unsuitable recommendation to a public customer that resulted in a large surrender charge and a forfeiture of a death benefit. The findings stated that Vitetta misappropriated/misused \$37,000 from a public customer. The findings also stated that Vitetta failed to disclose information on his Form U4. **(NASD Case #E1020041225-01)**

Brad Allan Weaver (CRD #2505931, Registered Principal, Chicago, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Weaver permitted an unregistered person who was also barred from the securities industry to engage in securities transactions. The findings stated that Weaver failed to maintain complete, accurate and current books and records.

The findings also stated that Weaver guaranteed a public customer against loss in his securities account. The findings also included that Weaver engaged in outside business activities, for compensation, without providing his member firm with prompt written notice. **(NASD Case #E8A2004050201)**

Alexander M. Williams (CRD #3046599, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The decision was based on findings that Williams engaged in excessive trading in a public customer's accounts based on the customer's financial circumstances and investment objectives. The findings stated that Williams received funds from a public customer for investment, but instead used the funds to purchase securities in an account he controlled. The findings also stated that Williams failed to respond to NASD requests for information and documents. **(NASD Case #E1020040687-01)**

Fai W. Wong (CRD #2596128, Associated Person, Brooklyn, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wong consented to the described sanction and to the entry of findings that he converted \$2,175,000 from his member firm for his own use and benefit without the firm's prior knowledge, authorization or consent. The findings stated that Wong failed to appear for scheduled NASD on-the-record interviews. **(NASD Case #2005000464401)**

Decisions Issued

The following decisions have been issued by the Office of Hearing Officers (OHO), and have been appealed to or called for review by the NAC as of July 7, 2006. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decisions. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notice to Members*.

Angel Cruz (CRD #1988787, Registered Principal, San Francisco, California), Anthony Joseph Martinez (CRD #1568443, Registered Principal, Lake Grove, New York) and Jericho Guazon Nicolas (CRD #2030192, Registered Representative, San Francisco, California) were barred from association with any NASD member in any capacity. The sanctions were

based on the findings that the respondents effected trades in a public customer's accounts by interpositioning their firm between the customer and the market and taking intra-day trading profits on riskless principal transactions. The findings stated that the respondents caused their member firm to send trade confirmations to a customer that failed to disclose the firm's intra-day trading profits on the transactions the respondents effected. The findings also stated that Martinez failed to give the customer best execution when he caused the firm to take trading profits on these principal trades, and failed to provide the customer with best execution when he executed trades at prices less favorable than the prevailing inter-dealer price at the time of the trade. The findings also included that the respondents failed to make and keep, or caused their firm to fail to make and keep, accurate records of each of the customer's orders showing the orders' terms and conditions. NASD found that Martinez reported or confirmed riskless principal transactions as principal transactions without submitting, or causing his firm to submit, either a clearing-order report with a capacity indicator of "riskless principal" or a non-tape, non-clearing report with a capacity indicator of "riskless principal."

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CAF040052)

Hung The Nguyen (CRD #2532462, Registered Representative, Orlando, Florida) was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Nguyen reassociates with any NASD member following the suspension noted above, or before he requests relief from any statutory disqualification. The sanctions were based on the findings that Nguyen failed to disclose to his member firm his activities relating to an outside securities account. (NASD Case #E072004087801)

Frank Peter Quattrone (CRD #1312126, Registered Principal, Los Altos Hills, California). The United States Securities and Exchange Commission (SEC) set aside the NAC's decision barring Quattrone from association with any NASD member in any capacity for failing to appear for an on-the-record testimony. (NASD Case #CAF030008)

Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents NASD's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Melissa A. Licht (CRD #4470617, Registered Representative, Pittsburgh, Pennsylvania) was named as a respondent in an NASD complaint alleging that she took blank checks pertaining to an account her supervisor owned, made the checks payable to herself for a total amount of \$8,500, forged her supervisor's signature on the checks, and endorsed and deposited them into her personal bank account without her supervisor's authorization or consent. The complaint alleges that Licht failed to respond to NASD requests for information. (NASD Case #2005002708301)

George Ellis Brown McMahon III (CRD #3055065, Registered Representative, Waldorf, Maryland) was named as a respondent in an NASD complaint alleging that he received checks from public customers for investment purposes, negotiated the checks but did not invest the money as the customers instructed. The complaint also alleges that McMahon failed to respond to NASD requests for information or documents. (NASD Case #2005003051001)

Scott Thomas Powers (CRD #2255877, Registered Representative, Danvers, Massachusetts) was named as a respondent in an NASD complaint alleging that he accepted a \$25,000 bank check from a public customer for investment purposes and deposited the funds into a bank account, but did not use the funds to purchase securities and has not repaid the customer. The complaint alleges that Powers failed to respond to NASD requests for information and documents. (NASD Case #2005002808001)

Firms Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

May, Davis Group Inc.
New York, New York
(June 29, 2006)

World Financial Capital Markets Inc.
(nka New World Financial, Inc.)
Marbella, Spain
(June 29, 2006)

Firms Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Benson York Group, Inc.
Melville, NY
(July 5, 2006)

Stipek Securities, LLC
Santa Anna, CA
(July 5, 2006)

Firm Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Stipek Securities, LLC
Santa Ana, California
(July 18, 2006)

Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Christopher John Borgo
Boca Raton, Florida
(June 29, 2006)

Jeffrey Stuart Goldberg
Hillside, New Jersey
(June 29, 2006)

Marc Alan Levy
Boynton Beach, Florida
(June 29, 2006)

Individuals Barred Pursuant to NASD Rule 9552(h)

Russell Rodney Cloward
West Jordan, Utah
(July 24, 2006)

E. James Pritchett
Metairie, Louisiana
(July 31, 2006)

Claude St. Jean
Tampa, Florida
(July 31, 2006)

Richard Wolfe Weinberg
Oxnard, California
(July 17, 2006)

Individuals Suspended Pursuant to NASD Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Mohammed Kariuki Ali
Hackensack, New Jersey
(July 5, 2006)

Faith Yvette Dove
Bronx, New York
(July 31, 2006)

David Lee McMillan
Bullhead City, Arizona
(July 17, 2006)

Omar Rodriguez
Perth Amboy, New Jersey
(July 17, 2006)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Thomas McDermott Head

Palm Desert, California

(September 15, 2004, to July 13, 2006)

Camie Moen Quigley

Inver Grove Heights, Minnesota

(July 31, 2006)

Leslie Clark Stipek

Santa Ana, California

(July 18, 2006)

NASD Hearing Panel Bars Municipal Securities Broker for Fraudulent Sales Practices

Founder of California Firm Ordered to Repurchase Bonds, Pay Restitution to Customers

An NASD Hearing Panel has barred Marshall J. Field of Woodland Hills, CA, from the securities industry for fraudulent sales of municipal securities and for making unauthorized transactions in customer accounts.

The panel also ordered monetary sanctions against Field, the majority owner of now-defunct American National Municipal Corp. Field must offer rescission for transactions—that is, he must offer to repurchase bonds he sold customers at the original purchase price—totaling approximately \$422,000. Field must also pay restitution of approximately \$63,000, plus interest, to investors who suffered losses because of his misconduct.

The Hearing Panel found that from January 1999 through October 2002, Field made intentional misrepresentations and omissions of material fact to customers in recommending the purchase and sale of eight special, limited obligation bonds that were not backed by any public agency. Instead, they were payable solely from the anticipated revenues of the projects the bonds were funding—including a housing project and a golf course. The prospectus and official statement for each bond explicitly cautioned that investing in the bond involved substantial risks—including the potential loss of the entire investment, since anticipated revenues might be insufficient to pay the principal and/or interest; and because the underlying project was dependent on a developer/consultant with a limited operating history and no independent sources of revenues. The official statements also noted that the bonds could lose their tax-exempt status.

Nevertheless, Field promoted the bonds as safe and secure investments offering generous interest, the panel found. He did not inform his customers that the bonds were special, limited obligations, he did not disclose the risks associated with them, and he failed to furnish his customers with official statements or prospectuses that accurately described the bonds and their risks—even when customers specifically requested those documents.

Field also failed to disclose to his customers, either orally or through the delivery of official statements or prospectuses, that the State of California and the Securities and Exchange Commission (SEC) had accused the managing underwriter for each of the bonds and two of its principal officers of securities law violations in connection with municipal securities offerings associated with developments in California.

The Hearing Panel noted that Field targeted unsophisticated, vulnerable, often elderly customers who relied on him for investment advice. Most of the customers contacted Field after seeing his television advertisements extolling the safety and security of municipal bonds. But “rather than recommend safe and reliable investments,” the panel wrote in its decision, Field induced his customers “to invest in speculative municipal bonds that were underwritten by a firm and its principals who had been accused by state and federal regulatory authorities of securities fraud.”

The panel also found that Field executed a total of eight unauthorized transactions, most involving both an unauthorized purchase and an unauthorized sale, in the accounts of six different investors. The Hearing Panel found that the unauthorized transactions were accompanied by deception about the nature of the bonds and the reasons for the unauthorized transactions. Finally, the Hearing Panel found that Field guaranteed an investor against loss in connection with her purchase of a municipal security.

The Hearing Panel found that Field violated federal securities laws and Municipal Securities Rulemaking Board (MSRB), which NASD enforces. Noting the egregious nature of the violations and that Field has not accepted responsibility for his misconduct, the panel said it “believes that to remediate the misconduct and to protect the investing public, Field should be barred from associating with any (registered firm) in any capacity”—NASD’s most severe sanction for an individual. The panel ordered restitution and rescission to customers as well.

This Decision has been appealed to the National Adjudicatory Council (NAC), and the sanctions are not in effect pending consideration of the appeal.

NASD Fines Two Firms and Eight Traders \$490,000 for Misusing NASDAQ Trading System

Traders Entered Improper Orders in Pre-Open Market; Firms Failed to Supervise

NASD fined Trillium Trading LLC of Edison, NJ, eight Trillium traders and Schonfeld & Company LLC of Jericho, NY, a total of \$490,000 for entering improper crossed quotes during the NASDAQ Stock Market’s opening. Trillium Trading was fined \$225,000. Schonfeld & Company was fined \$175,000. The eight traders received fines ranging from \$10,000 to \$20,000 as well as suspensions ranging from one to four months.

“NASD will react quickly and aggressively when market participants attempt to distort market processes,” said Stephen Luparello, NASD’s Senior Executive Vice President for Market Regulation.

In October 2004, NASDAQ introduced the Modified Opening Process (MOP) so that markets would be unlocked and uncrossed at the open, thereby promoting the price discovery process. An NASD investigation found that during the first week of the MOP, eight Trillium traders and certain Schonfeld customers devised and implemented an impermissible trading strategy that allowed them to receive favorable executions in the MOP. Specifically, under the MOP, the first eligible orders submitted after 7:30 a.m. got the first available executions at 9:25 a.m. Thus, as soon after 7:30 a.m. as possible, in order to be first in line in the queue for executions at 9:25 a.m., the Trillium traders and Schonfeld customers entered two orders, a bid and an offer, in a same security, each of which crossed the market. At the time the traders and customers entered the orders, they did not know in which direction the market would move and thus did not know whether it would be beneficial to buy or sell the security. By placing orders simultaneously on opposite sides of the market in this fashion, the traders and customers were able to position themselves to obtain favorable executions regardless of whether the market moved up or down. The Trillium traders and Schonfeld customers never intended to both buy at the bid and sell at the offer. Rather, they intended to cancel one of the orders, either the bid or the offer, and leave only the order likely to get a favorable execution at 9:25 a.m. The strategy worked only if the traders and customers intended from the beginning to cancel one of the quotations. NASD rules prohibit the publication of non-bona fide quotations.

The non-bona fide orders—which were placed in over 1,000 different securities over two weeks—also adversely affected price discovery during the pre-open hours.

NASD also found that Trillium did not adequately supervise the activity of its traders during the MOP and that Schonfeld failed to supervise the activity of its retail day traders, who are not registered with NASD.

In concluding these settlements, the firms and traders neither admitted nor denied the charges, but consented to the entry of NASD’s findings. The firms and individuals agreed to the following sanctions:

Trillium Trading LLC	a censure, a \$225,000 fine (\$175,000 for supervision violations and \$50,000 for improper quotation practices by its traders) and an undertaking to revise its written supervisory procedures
Schonfeld & Company LLC	a censure, a \$175,000 fine (for supervision violations) and an undertaking to revise its written supervisory procedures
Imran Ahmad	a \$10,000 fine and a two-month suspension
Feming Chan	a \$20,000 fine and a two-month suspension
John R. Chinnock	a \$10,000 fine and a four-month suspension
Cary S. Grill	a \$10,000 fine and a one-month suspension
Zachary G. Hepner	a \$10,000 fine and a three-month suspension
David B. Lazarus	a \$10,000 fine and a two-month suspension
David E. Schwarz	a \$10,000 fine and a one-month suspension
Nikolas Z. Vrettos	a \$10,000 fine and a two-month suspension

NASD Fines Citigroup, Credit Suisse and Morgan Stanley \$775,000 For Deficient Price Target, Ratings, Other Disclosures in Research Reports

Firms Ignored Warnings from NASD to Cease Violating Analyst Disclosure Rules

NASD imposed fines totaling \$775,000 against Citigroup Global Markets, Inc., Credit Suisse Securities (USA), LLC (formerly Credit Suisse First Boston, LLC) and Morgan Stanley & Co. Incorporated for numerous violations of NASD’s research analyst conflict of interest rules.

NASD fined Citigroup \$350,000, Credit Suisse \$225,000 and Morgan Stanley \$200,000. In addition to the fines, Citigroup and Credit Suisse agreed to review research reports and certify to NASD that they contain proper disclosure of price target valuation methods and risks. Those reviews and certifications must take place quarterly, for one year.

“The failures on the part of Citigroup, Credit Suisse and Morgan Stanley to abide by these rules undermine the important disclosure obligations mandated by NASD in the wake of the research analyst conflict of interest scandals,” said James S. Shorris, Executive Vice President and Head of Enforcement. “These cases should send a clear message to firms that NASD expects full compliance with the research disclosure requirements, especially after NASD notifies a firm that its practices violate our rules.”

Citigroup

NASD found that from July 2002 to May 2005, Citigroup failed to include in more than 2,500 technical and quantitative research reports numerous disclosures required by NASD’s research analyst conflict of interest rules. In June 2004, NASD’s Advertising Department found that Citigroup’s research did not contain the required disclosures, a finding that the firm acknowledged. At that time, NASD instructed Citigroup that it must bring its research into compliance and reiterated this position in a December 2004 meeting. The firm’s delinquent efforts to comply with NASD disclosure rules were hampered by a lack of effective or timely corporate support, including the failure of the firm to commit adequate funds or resources. Lacking sufficient funds and without a game plan for completion, Citigroup’s efforts were characterized in

a June 2004 internal email as being “in limbo.” Citigroup did not bring its research into compliance with NASD disclosure rules until May 2005, more than two years after the effective date of these rules.

Credit Suisse

NASD found that from February 2003 to November 2005, Credit Suisse regularly published equity research reports that violated NASD price target disclosure rules by using unclear language to describe price target valuation methods and the risks that might impede achievement of the price target. During that time, Credit Suisse published approximately 11,000 research reports per year. The firm continued to publish research reports containing deficient price target disclosures despite two warnings by NASD Advertising in February 2003 and August 2004. Credit Suisse also failed to enforce its written procedures concerning price target disclosures.

Morgan Stanley

NASD found that from March 2003 to June 2004, Morgan Stanley published over 22,000 equity research reports that failed to disclose, in a clear and prominent manner, the percentage of securities to which it would assign a “buy,” “hold/neutral” or “sell” rating as NASD rules requires. Additionally, from March 2003 to July 2005, Morgan Stanley published 21,000 equity research reports that failed to adequately disclose so-called “analyst industry view” ratings—a rating system used to measure the performance of the analyst against a selected broad market benchmark, such as the S&P 500. Throughout these time periods, Morgan Stanley received repeated notices from NASD Advertising that their research reports failed to comply with applicable disclosure rules, yet the firm failed to take reasonable or prudent steps to correct these deficiencies.

In connection with these settlements, Citigroup, Credit Suisse and Morgan Stanley neither admitted nor denied the charges, but consented to the entry of NASD’s findings.